Filiation and Legitimacy

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I. INTRODUCTION

The Filipino family is recognized as the foundation of the nation.[1] The Constitution declares that the family, as an institution, is deemed sacred and protected.[2] The cherished Filipino family is, however, not without qualifications. Its solidarity is premised on the sanctity of marriage and is characterized by the premium placed on legitimacy. Filipinos honor the family and spurious relationships are discouraged, if not condemned. While the advocacy for the rights of the child have found its way in Philippine laws and jurisprudence, the thrust of discouraging illicit relationships remains.

The solidarity of the family prevents the raising of the illegitimate child to the same status as that of the legitimate child. Article 220 of the 1954 Civil Code provides:

> In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or facts leans toward the validity of marriage, the indissolubility of the marriage bonds, the *legitimacy of children*, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.[3]

This provision has been omitted in the Family Code but the principles and values contained therein remain the public policy in the Philippines. Illegitimate children have been granted additional rights and given greater recognition, but the distinction between legitimate and illegitimate children subsists. International principles provide that the best interest of the child, without distinction as to legitimacy or illegitimacy, shall be a primary consideration.[4] In the Philippines, possession of a legitimate status is considered in the best interest of the child. In *Concepcion v. Court of Appeals*,[5] the Court said that:

> The law, reason and common sense dictate that a legitimate status is more favorable to the child. In the eyes of the law, the legitimate child enjoys a preferred and superior status. He is entitled to bear the surnames of both his father and mother, full support and full inheritance. On the other hand, an illegitimate child is bound to use the surname and be under the parental authority only of his mother. He can claim support only from a more limited group and his legitime is only half of that of his legitimate counterpart. Moreover (without unwittingly exacerbating the discrimination against him), in the eyes of society, a 'bastard' is usually regarded as bearing a stigma or mark of dishonor. Needless to state, the legitimacy presumptively vested by law upon Jose Gerardo [the child] favors his interest.[6]

The legitimate child has vested rights conferred by law. While scientific methods such as DNA testing can potentially end controversies with regard to filiation,[7] proof of legitimacy is a different matter.

Possession of a legitimate status, and incidentally of filiation, was the core issue in the case of *Angeles v. Maglaya*[8] where Maglaya, in order to be

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Cite as 52 ATENEO L.J. 356 (2007).

1. PHIL. CONST. art XV, § 1.
2. PHIL. CONST. art II, § 12.
3. Macadangdang v. Court of Appeals, 100 SCRA 73, 91 (1980) (citing article 220 of the 1954 Civil Code) (emphasis supplied).
4. Convention on the Rights of the Child, G.A. Res. 44/25, arts. 3, 6, & 27 (Nov. 20, 1989). The Philippines became a signatory to this treaty on Sep. 20, 1990.
5. Concepcion v. Court of Appeals, 468 SCRA 438 (2005).
6. *Id.* at 455.
7. Tecson v. Commission on Elections, 424 SCRA 277, 345 (2004) (citing Tijing v. Court of Appeals, 354 SCRA 17 (2001)).

   > In case proof of filiation or paternity would be unlikely to satisfactorily establish or would be difficult to obtain, DNA testing, which examines genetic codes obtained from body cells of the illegitimate child and any physical residue of the long dead parent could be resorted to. A positive match would clear up filiation or paternity.

appointed as administratrix of the estate of the deceased, claimed to be a legitimate child. She presented as substantiation to her claim a birth certificate indicating that she was the child of the decedent and that her parents were married at the time of birth. She cited article 172 of the Family Code[9] to support her claim of legitimacy. What provided some persuasiveness to her argument is that a "birth certificate" is among the items of proof mentioned in article 172.[10] The Court, however, ruled contrary to the declaration in her birth certificate. The succeeding discussion delves into the concept of legitimacy and the clarification of the proper application of article 172.

II. CONCEPT OF LEGITIMACY

The notion of legitimacy accompanied the development of societies and domestic religion.[11] Marriage was recognized as an institution and different social and cultural systems supported the concept that procreation is an essential end of marriage. Sexual union between spouses is assumed.[12] Consequently, a child born to a married woman is considered to be the child of her husband.[13] Proceeding from this, children born in wedlock are presumed to be legitimate.[14]

8. Angeles v. Maglaya, 469 SCRA 363 (2005).

9. The Family Code of the Philippines [FAMILY CODE], Executive Order No. 209, as amended by Executive Order No. 277, art. 172 (1988).

10. *Id.*

11. *See generally*, Joseph Cullen Ayer, Jr., *Legitimacy and Marriage*, 16 HARV. L. REV 22-42 (Nov. 1902) (advancing the view that in its origin the notion of legitimacy was based upon domestic religion, and rejects the traditional explanation that marriage was a convenient and certain evidential fact indicating the heir).

12. Concepcion v. Court of Appeals, 468 SCRA 438 (2005) (citing People v. Giberson, 197 Phil. 509 (1982); 111 SCRA 532 (1982)) ("[t]he presumption of legitimacy proceeds from the sexual union in marriage, particularly during the period of conception.").

13. Macadangdang v. Court of Appeals, 100 SCRA 73, 86 (1980) (citing N.Y. Milone v. Milone, 290 N.Y. S. 863, 160 Misc. 830) ("[i]t cannot defeat the presumption of legitimacy but it may be proved as a circumstance to corroborate proof of physical impossibility of access.").

14. De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499, 504 (2001); Tison v. Court of Appeals, 276 SCRA 582 (1997) (citing 1 BURR W. JONES, COMMENTARIES ON THE LAW OF EVIDENCE IN CIVIL CASES, 118-19 (2d ed. 1913)) ("[t]here is perhaps no presumption of the law more firmly established and founded on sounder morality and more convincing reason than the presumption that children born in wedlock are legitimate.").

The universally recognized presumption on legitimacy[15] may be rebutted if there was impossibility of physical access between husband and wife during the time that the child was conceived. [16] Hence, the presumption of legitimacy of children born during wedlock obtains, notwithstanding that:

1. There are circumstances that makes sexual relations improbable;[17]
2. Husband and wife voluntarily separate and live apart, unless the contrary is shown;[18]
3. The wife was guilty of infidelity during the possible period of conception;[19]
4. The husband denies having any intercourse with his wife.[20]

In case a child is born inside a valid marriage, the presumption of legitimacy immediately attaches. This presumption fixes a civil status for the child born in wedlock.[21] A child conceived and born outside a valid marriage is therefore illegitimate unless the law provides otherwise.[22] For one, article 54 of the Family Code provides that children conceived or born

15. *See*, Tison v. Court of Appeals, 276 SCRA 582 (1997). *See also, Macadangdang*, 100 SCRA at 87 ("[s]o firm was this presumption originally that it cannot be rebutted unless the husband was incapable of procreation or was absent beyond the four seas, that is, absent from the realm, during the whole period of the wife's pregnancy.").

16. *Macadangdang*, 100 SCRA at 85 (citing 1 ARTURO M. TOLENTINO, COMMENTARIES & JURISPRUDENCE ON THE CIVIL CODE 513 (1990 ed.) (citing Bevilaqua, Familia, 311)). *See, De Jesus*, 366 SCRA at 504.

17. *Macadangdang*, 100 SCRA at 86.

18. *Id.* at 87 (citing Ala. Franks v. State, 161 So. 549, 26 Ala. App. 430) ("[t]he presumption of legitimacy arises in children *born after the separation*.").

19. FAMILY CODE, art. 167; Concepcion v. Court of Appeals, 468 SCRA 438 (2005); *De Jesus*, 366 SCRA at 507; Macadangdang v. Court of Appeals, 100 SCRA 73, 87 (1980) (citing N.Y. Dieterich v. Dieterich, 278 N.Y. S. 645, Misc. 714) ("[i]n the case of a child born or conceived in wedlock, evidence of the infidelity or adultery of the wife and mother is not admissible to show illegitimacy, if there is no proof of the husband's impotency or non-access to his wife.").

20. *Macadangdang*, 100 SCRA at 88 (citing Lynn v. State, 47 Ohio App. 158, 191 N.E. 100).

21. De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499 (2001); *Concepcion*, 468 SCRA at 449 (citing Liyao, Jr. v. Liyao, 428 Phil. 628 (2002)) ("[i]mpugning the legitimacy of a child is a strictly personal right of the husband or, in exceptional cases, his heirs.").

22. FAMILY CODE, art. 165.

before the finality of a judgment of annulment or absolute nullity of the marriage on the ground of psychological incapacity shall be considered legitimate.[23] Likewise, a child who was born from a subsequent void marriage as a result of the failure of the contracting parties to comply with the mandatory provisions of articles 52 and 53 of the Family Code shall likewise be considered legitimate.[24]

The law requires that every reasonable presumption be made in favor of legitimacy.[25] Thus, proof of legitimacy is necessary only when the status of a legitimate child is under attack. Jurisprudence is also strongly settled that the paramount declaration of legitimacy by law cannot be attacked collaterally, and can only be repudiated or contested in a direct suit specifically brought for that purpose.[26] If the status of a legitimate child is not under attack, the presentation of proof of legitimacy is improper and uncalled for.[27] Likewise, it is only when the legitimacy of a child has been successfully impugned that the paternity of the husband can be rejected.[28] A minor cannot be deprived of his or her legitimate status on the bare declaration of the mother or even much less, the supposed father.[29] In fine, the law and only the law determines who are the legitimate or illegitimate children for one's legitimacy or illegitimacy cannot ever be compromised.[30]

III. FILIATION AND LEGITIMACY

In the case of *Angeles v. Maglaya*, the respondent alleged a right to the administration of the estate of Francisco Angeles on the ground of being the latter's legitimate child. Maglaya sought to prove not only that she was the daughter of Francisco Angeles, but that Francisco Angeles and her mother, Genoveva Mercado, were married at the time of her conception or birth.

23. *Id.* art. 54.

24. *Id.*

25. Concepcion v. Court of Appeals, 468 SCRA 438, 448 (2005) (citing Bowers v. Bailey, 237 Iowa 295, 21 N.W. 2d 773).

26. *De Jesus*, 366 SCRA at 503; Tison v. Court of Appeals, 276 SCRA 582 (1997); Macadangdang v. Court of Appeals, 100 SCRA 73 (1980) (citing La-Ducasse v. Ducasse, 45 So. 565, 120 La. 731; Saloy's Succ. 10 So. 872, 44 La. Ann., cited in 10 C.J.S. 77); Angeles v. Maglaya, 469 SCRA 363, 370 (2005) ("[t]he correct lesson of *Tison* is that: '(a) a child is presumed legitimate only if conceived or born in wedlock; and (b) the presumptive legitimacy of such child cannot be attacked collaterally.'").

27. *See, Concepcion*, 468 SCRA at 454.

28. De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499 (2001).

29. *Concepcion*, 468 SCRA at 453.

30. *Id.*

This appeared particularly relevant because Maglaya alleged in her petition that petitioner Belen was Francisco's "second wife" when it was a given fact that her mother, Genoveva Mercado, was alive when Francisco and Belen were married.

While the lower court dismissed the petition of the respondent, the Court of Appeals reversed. The appellate court predicated its ruling on the finding that respondent has sufficiently established her legitimate filiation without, however, categorically stating from what facts established during the trial did the presumption of respondent's supposed legitimacy arise.[31]

Maglaya sought to prove both her legitimacy and her filiation, principally through her birth certificate in which it appeared that her father was Francisco Angeles and her mother was Genoveva Mercado, and that her filiation was "legitimate."[32] The petitioner, however, averred that respondent could not be the daughter of decedent for, although she was recorded as his legitimate daughter, the corresponding birth certificate was not signed by him. The petitioner further alleged that respondent has not presented the marriage contract between her supposed parents or produced any acceptable evidence to prove such union.

Maglaya, in order to prove her legitimacy, invoked article 172 of the Family Code, which reads:

> Art. 172. The *filiation of legitimate children* is established by any of the following:
>
> 1. The *record of birth* appearing in the civil register or a final judgments; or
>
> 2. An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.
>
> In the absence of the foregoing evidence, the legitimate filiation shall be proved by:
>
> 1. The open and continuous possession of the status of a legitimate child; or
>
> 2. Any other means allowed by the Rules of Court and special laws.[33]

The Court conceded that because article 172 of the Family Code appears to say so, the legitimate filiation of a child can be established by any of the modes defined therein even without direct evidence of the marriage of his or

31. Angeles v. Maglaya, 469 SCRA 363, 371 (2005).

32. *Id.* at 366-67 ("[g]reat weight was accorded on respondent's birth certificate with the name of deceased entered as father and whereon the handwritten word 'Yes' appears on the space below the question 'Legitimate?' Likewise, the word 'married' is written in the certificate to indicate the union of the decedent and respondent's mother.").

33. FAMILY CODE, art. 172 (emphasis supplied).

her supposed parents.[34] Nevertheless, the court affirmed the contention of the petitioner that it was error for the appellate court to have ruled that the birth certificate indubitably established the legitimacy of the respondent. The court held that:

> The conclusion reached by the Court of Appeals that the Birth Certificate of respondent, unsigned as it were by Francisco and Genoveva, establishes — and '*indubitably*' at that — not only respondent's filiation to Francisco but even her being a legitimate daughter of Francisco and Genoveva, taxes credulity to the limit. In a very real sense, the appellate court regarded such certificate as defining proof of filiation, and not just filiation but of legitimate filiation, by inferring from it that Francisco and Genoveva are legally married. In the apt words of petitioner, the appellate court, out of a Birth Certificate signed by a physician who merely certified having attended '*the birth of a child who was born alive at 3:50 P.M.*' created '*a marriage, that of 'Francisco and Genoveva', and filiation* (that said child) *is the daughter of 'Francisco.''*[35]

The decision of the Court was based on the fact that the birth certificate presented was not signed by the decedent against whom legitimate filiation is asserted but was signed only by the attending physician. The Court, however, also made the pronouncement that *a legitimate child is a product of a valid and lawful marriage and that if the element of lawful union is removed, there is strictly no legitimate filiation between parents and child.*[36] The Court emphasized that the legitimate filiation of a child is a matter fixed by law.[37]

The Court's use of the term "legitimate filiation" adds to the confusion. Proof of legitimacy and proof of filiation are distinct from each other. When one speaks of "legitimate filiation," two issues are combined, namely: (a) that of legitimacy; and (b) that of filiation. These are two different concepts. That of "legitimacy" is a status, that of being a legitimate child under article 164 of the Family Code; while that of "filiation" is a relationship, that of a parent and a child.

Under the law, filiation of children may be by nature or by adoption.[38] This means that the relationship of parent and child may arise either naturally or through the adoption process as sanctioned by law.[39] Natural filiation may

34. *Angeles*, 469 SCRA at 373.

35. *Id.* at 375 (emphasis supplied).

36. *Id.* at 369 (emphasis supplied).

37. Angeles v. Maglaya, 469 SCRA 363, 375 (2005) (citing Sayson v. Court of Appeals, 205 SCRA 321 (1999)).

38. FAMILY CODE, art. 163.

39. In De Asis v. Court of Appeals, 303 SCRA 176, 183 (1999), the Court affirmed the concept that filiation is a relationship. The court declared that "[p]aternity and filiation or the lack of the same is a relationship that must be judicially established and it is for the court to declare its existence or absence."

be legitimate or illegitimate.[40] Legitimacy is a status and it is conferred by law to a child who is conceived or born during the marriage of the parents.[41]

It is evident that legitimacy is established by law from the moment of birth.[42] If facts or circumstances tend to establish legitimacy in accordance with the definition provided by law, then the presumption attaches.[43] Proof of legitimacy becomes proper when the legitimacy of the child is under attack.[44] Accordingly, it is proper in the following instances:

When the legitimacy of the child is being questioned;[45]

When the status of a child born after 300 days following the termination of marriage is sought to be established.[46]

The problem begins when article 172 is construed as constituting proof of legitimacy.

Chapter 2, title VI of the Family Code pertains to "Proof of Filiation." Specifically, article 172 states that the *filiation* of legitimate children is established by the record of birth appearing in the civil register or a final judgment, among others.[47]

Quite clearly then, the "record of birth" as well as the other items of proof enumerated in article 172 are evidence of the "filiation of legitimate

40. FAMILY CODE, art. 163.

41. *Id.* art. 164.

42. Concepcion v. Court of Appeals, 468 SCRA 438 (2005); De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499, 506 (2001) ("[t]his step cannot be aptly done because the law itself establishes the legitimacy of children conceived or born during the marriage of the parents.").

43. This presumption can only be rebutted by evidence of physical impossibility of access between husband and wife at the time the child is conceived. The paternity of husband can also be rejected only if impugned within the periods provided by law. *See*, FAMILY CODE, arts. 170-71.

44. In the case of Balogbog v. Court of Appeals, 269 SCRA 259 (1997), proof of legitimacy became important when private respondents claimed to be legitimate children of a deceased father whom other relatives claimed to have died without issue.

45. *See generally*, Concepcion v. Court of Appeals, 468 SCRA 438 (2005).

46. *Id. See also*, FAMILY CODE, art. 169 ("[t]he legitimacy or illegitimacy of a child born after 300 days following termination of the marriage shall be proved by whoever alleges such legitimacy or illegitimacy.").

47. FAMILY CODE, art. 172, ¶ 1.

children." They do not constitute proof of the legitimacy of the child. The legitimacy of the child is assumed. This becomes even more evident when article 172 is read with article 175, which provides that "illegitimate children" may establish their "illegitimate filiation" in the same way and on the same evidence as legitimate children.[48] Article 172 does not refer to proof of legitimacy because it assumes already that the child is "legitimate" and is limited to proof of "filiation."

Article 172 reproduces, with amendments, articles 265, 266, and 267 of the Civil Code.[49] Conceptually, the provision actually provides evidence to establish acknowledgment of an alleged father, and through such acknowledgment, filiation. It does not prove legitimacy but recognition. The predecessor of the Philippine Civil Code is the Civil Code in Spain which was in force in the Philippines from 8 December 1889 up until the day prior to 30 August 1950 when the Civil Code of the Philippines took effect. Under the Civil Code of Spain, in order to establish filiation or paternity, acknowledgment was required.[50]

Acknowledgment is the more appropriate term in actions for establishing filiation of illegitimate children. "Acknowledgment was either judicial (compulsory) or voluntary. Judicial or compulsory acknowledgment was possible only if done during the lifetime of the putative parent; voluntary acknowledgment could only be had in a record of birth, a will, or a public document."[51] Unlike an action to claim legitimacy which would last during the lifetime of the child, and might pass exceptionally to the heirs of the child, an action to claim acknowledgment, however, could only be brought during the lifetime of the presumed parent.[52] Nevertheless, in the same way that the evidence laid down by article 172 is hinged on establishing illegitimate filiation by proving acknowledgment, the same acknowledgment is the basis of proving filiation of legitimate children. The intent of the provision is, therefore, to provide proof of filiation. This is the import of the law and can be gleaned from the various principles upheld by the Court.

In De Jesus v. *Estate of Decedent Juan Gamboa Dizon*,[53] the Court explained:

> The *due recognition* of a child in a record of birth, a will, a statement before a court of record, or in any authentic writing is, in itself, a *consummated act of acknowledgment* of the child, and no further court action is required. In fact, any authentic writing is treated not just a ground for compulsory recognition; it is in itself a voluntary recognition that does not require a separate action for judicial approval.[54]

48. *Id.* art. 175.

49. Jison v. Court of Appeals, 286 SCRA 495, 531 (1998).

50. Tecson v. Commission on Elections, 424 SCRA 277 (2004).

51. *Id.* at 337 (citing article 131 of the 1954 Civil Code).

52. *Id.*

53. De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499 (2001).

The items of proof under article 172 are utilized as evidence of filiation premised on recognition. In a real sense, if a father recognizes a child as his, the law takes due notice. Article 172, for example, provides that filiation may be established by any other means allowed by the Rules of Court and special laws. These may refer to a "child's baptismal certificate, a judicial admission, a family bible in which the child's name has been entered, admission by silence, the testimony of witnesses, and other kinds of proof of admission under rule 130 of the Rules of Court."[55]

Baptismal certificates are public documents but they can only serve as evidence of the administration of the sacraments on the dates so specified and are not necessarily competent evidence of the veracity of entries therein with respect to the child's paternity[56] or statements that concern the relationship of the person baptized.[57] The Court declares that unless there is proof that the alleged father participated in its preparation, baptismal certificates have scant evidentiary value.[58] Again, the evidence establishes filiation premised on acknowledgment by the alleged father.

The controversies before the courts usually involve proving filiation in order to get support or to determine successional rights. In these cases, the most common document utilized as evidence is the birth certificate. "A birth certificate, being a public document, offers prima facie evidence of filiation and a high degree of proof is needed to overthrow the presumption of truth contained in such public document."[59] Again, the evidentiary weight of a birth certificate is primarily based on its being a document of recognition. That is the reason why the court would consider whether or not the alleged father participated in the preparation of a birth certificate to determine its

54. *Id.* at 503 (emphasis supplied).

55. Cruz v. Cristobal, 498 SCRA 37, 51 (2006) (citing Trinidad v. Court of Appeals, 352 Phil. 12, 32-33 (1998)); Uyguangco v. Court of Appeals, 178 SCRA 684, 689 (1989).

56. Fernandez v. Court of Appeals, 230 SCRA 130 (1994); Macadangdang v. Court of Appeals, 100 SCRA 73 (1980); Fortus v. Novero, 23 SCRA 1331 (1968).

57. *Macadangdang*, 100 SCRA at 85.

58. *Fernandez*, 230 SCRA at 136-37 (citing Berciles v. Systems, et al., 128 SCRA 53 (1984)).

59. People v. Simplicio Delantar, 514 SCRA 115, 138 (2007) (citing Heirs of Cabais v. Court of Appeals, 374 Phil. 681, 688; 316 SCRA 338 (1999)).

probative value.[60] The failure of such requirement rendered the birth certificate useless as being an *authoritative document of recognition.*[61]

Generally, the court would refuse to give probative weight to a birth certificate unless signed by the alleged father. Even if the Certificate from Civil Registrar shows the status of the child as "legitimate," without a showing that the alleged father was the one who reported the child's birth to the Office of the Local Civil Registrar, the court held that the document was *incompetent to prove paternity.*[62] The court also refused to give value to a birth certificate which was unsigned by an accused in a criminal case where doing so would increase the penalty to be imposed on the accused.[63]

In effect, article 172 proves acknowledgment or recognition in order to establish filiation. Even by pronouncement of the Court, the birth certificate was not intended to prove legitimacy. Thus, the court declares that the birth certificate is a formidable piece of evidence prescribed by both the Civil Code and article 172 of the Family Code *for purposes of recognition and filiation.*[64]

It is evident that the thrust of article 172 in proving filiation of legitimate children is clearly to provide means by which acknowledgment by the father can be established. On the other hand, acknowledgment by an alleged father is immaterial in determining status. Whenever the concept of legitimacy and filiation are not distinguished, either in usage or terminology, confusion arises.

In several cases, the Court held that a birth certificate proving legitimacy is not overthrown by claims of illegitimacy.[65] Rather than referring to the

60. *Id.;* Mendoza, et al. v. Mella, 17 SCRA 788 (1966); Tecson v. Commission on Elections, 424 SCRA 277 (2004); Cabatania v. Court of Appeals, 441 SCRA 96 (2004); Solinap v. Locsin, Jr., 371 SCRA 711 (2001); *Fernandez*, 230 SCRA at 136-37 (citing Berciles v. Government Service Insurance System, 128 SCRA 53 (1984)); Jison v. Court of Appeals, 286 SCRA 495 (1998); Roces v. Local Civil Registrar, 102 Phil. 1050 (1958) (the Court pronounced that in order for the birth certificate to be utilized as proof voluntary acknowledgment of filiation or paternity, the certificate was required to be signed or sworn to by the father).

61. *Tecson*, 424 SCRA at 337 (citing Dayrit v. Piccio, 92 Phil. 729 (1953)) (emphasis supplied).

62. *Jison*, 286 SCRA at 531 (emphasis supplied).

63. *Simplicio Delantar*, 514 SCRA at 138. ("[t]his is a criminal case wherein an interpretation unfavorable to the accused is generally unacceptable.").

64. Concepcion v. Court of Appeals, 468 SCRA 438 (2005); *Solinap*, 371 SCRA at 725 (emphasis supplied).

65. De Jesus v. Estate of Decedent Juan Gamboa Dizon, 366 SCRA 499 (2001); Macadangdang v. Court of Appeals, 100 SCRA 73 (1980).

birth certificate as proof of filiation, its value as proof of legitimacy is instead discussed. In one of these cases, the court included a rationalization based on public policy. The Court ruled:

> For this Court to allow, much less consent to, the bastardization of respondent's son would give rise to serious and far-reaching consequences on society. This Court will not tolerate scheming married women who would indulge in illicit affairs with married men and then exploit the children born during such immoral relations by using them to collect from such moneyed paramours. This would be a form of wrecking the stability of two families. This would be a severe assault on morality.[66]

On the other hand, in cases where the birth certificate, if admitted, would constitute proof of illegitimacy, the Court would choose to reject its contents. The Court would hold that the birth certificate will not be allowed to overthrow the presumption of legitimacy. In *Concepcion*, the birth certificate of a child showed that his father was the man his mother married while the latter's first marriage was still subsisting. The second marriage was declared void and the mother then wanted her child to be considered illegitimate. The court rejected the contents of the birth certificate and declared the child to be a legitimate child of the subsisting first marriage.[67] The Court said:

> Between the certificate of birth which is *prima facie* evidence of Jose Gerardo's illegitimacy and the quasi-conclusive presumption of law of his legitimacy, the latter shall prevail. Not only does it bear more weight, it is also more conducive to the best interests of the child and in consonance with the purpose of the law.[68]

The ratio in the preceding cases would have been simplified if the Court declared unequivocally that the birth certificate is not intended to prove legitimacy but only filiation. Whether or not the birth certificate indicates legitimacy or illegitimacy is immaterial because status is conferred by law. The discussion would have been clarified if proof of legitimacy and proof of filiation are treated as distinct concepts.

The fact is that if a birth certificate is signed by the father, then the birth certificate may be utilized to prove paternity but in no case will it confer status. Even as evidence of recognition, the birth certificate, if unsigned by the father, fails to rise to level of proof necessary to establish at the very least filiation, much more legitimacy. In fact, even if the birth certificate is utilized to prove filiation based on the recognition by an alleged father, it

66. *Macadangdang*, 100 SCRA at 91.

67. Concepcion v. Court of Appeals, 468 SCRA 438 (2005).

68. *Id.* at 454.

may still be attacked; in which case, paternity of husband can be rejected only after the status of legitimacy conferred by law is successfully impugned.

By itself, a birth certificate indicating that a child is legitimate is not competent evidence to establish status. The statements in the record of birth may be rebutted by mere preponderance of evidence.[69] While in the case of *Concepcion*, the mother was claiming illegitimacy for the child, the pronouncements of the court made therein are sound. The court held that *not even the birth certificate of the minor can change his status for the information contained therein are merely supplied by the mother or the supposed father. The status of a child should be what the law says and not what a parent says it is.*[70] If judicial admissions made by parents cannot prevail over the status conferred by law,[71] then even more so the admissions made by parents on the birth certificate.

As proof of filiation, the birth certificate is still open for challenge. In all cases, birth certificates are only prima facie evidence of filiation and prove only the event which gave rise to its execution, that is, the birth of a child.[72] The Code Commission, through Dean Gupit, opined that there is no major controversy even if the record of birth is wrong because it can be attacked to destroy the prima facie evidence while at the same time presenting evidence on status.[73] As proof of status, the birth certificate would not suffice. It cannot be overemphasized that legitimacy is conferred by law.

In the *Angeles* case, Maglaya sought to prove, through her birth certificate, both her "filiation" to Francisco Angeles as her father, and the marriage of Francisco Angeles to her mother, Genoveva Mercado, at the time of her conception, thus her "legitimacy."

The construction of article 172 to the effect that it provides that legitimacy may be established by any of the modes therein would be misleading. In order to prove legitimacy, the fact of being conceived or born

69. *Id.*

70. *Id.* (emphasis supplied).

71. *Id.* at 447.

> The appellate court brushed aside the common admission of Gerardo and Ma. Theresa that Jose Gerardo was their son. It gave little weight to Jose Gerardo's birth certificate showing that he was born a little less than a year after Gerardo and Ma. Theresa were married. We are not unaware of the movant's argument that various evidence exist that appellee and the appellant have judicially admitted that the minor is their natural child.

72. *See*, Angeles v. Maglaya, 469 SCRA 363 (2005).

73. MINUTES OF THE JOINT MEETING OF THE CIVIL CODE AND FAMILY LAW COMMITTEES 8 (Aug. 3, 1985) [hereinafter MINUTES OF THE MEETING].

inside a valid marriage must be proven. This is because status cannot be compromised.

In the case of *Tecson v. Commission on Elections*,[74] the Court ruled that since the preponderance of evidence showing that the father of Fernando Poe, Jr., Allan F. Poe, was himself a Filipino citizen, and since the 1934 Constitution, during the effectivity of which Fernando Poe, Jr. was born, confers citizenship to all persons whose fathers are Filipino citizens regardless of whether such children are legitimate or illegitimate, it did not find it necessary to resolve the issue of legitimacy. Nevertheless, in the course of the trial, the evidence offered was his birth certificate and proof of marriage of his parents. In this case, it appeared that the proof of legitimacy required would be evidence of being born in lawful wedlock. In *Balogbog v. Court of Appeals*,[75] Ramonito and Generoso claimed to be legitimate children to be entitled to one-third share in the estate of their grandparents. In order to support their claim, the marriage between the alleged parents was first established. Afterwards, Ramonito and Generoso provided proof to the effect that they were indeed children of the alleged parents. Indeed, these cases show that in order to establish status, due consideration is given to the definition of legitimate children as provided by law. In *Balogbog*, legitimacy was already assumed because of proof of lawful union between the alleged parents even before filiation was established.

In the *Angeles* case, which had its beginning in a petition for letters of administration instituted by Maglaya, her cause of action was predicated on her allegation that she is the legitimate daughter of Francisco Angeles; thus, it would not suffice for her purpose to establish merely her filiation as a daughter of Francisco Angeles.

The Code Commission in drafting the provisions of the Family Code intended that proof of filiation should not go against the definition of legitimate children.

> Justice Reyes remarked that under their definition of legitimate children, their basic idea is that they must be conceived and born within wedlock so that regardless of possession of the status of a legitimate child, if it can be proved that he was not conceived and born within wedlock, then said child is illegitimate.[76]

While the Code Commission discussed particularly the weight of "possession of status" in proving filiation of legitimate children,[77] the

74. Tecson v. Commission on Elections, 424 SCRA 277 (2004).

75. Balogbog v. Court of Appeals, 269 SCRA 259 (1997).

76. MINUTES OF THE MEETING, *supra* note 73, at 3.

77. *Id.* at 4.

premise that such proof should not prevail over the definition of legitimate children should govern in all the modes provided in article 172. Thus, the birth certificate is prima facie proof of filiation but it is not meant to establish a fact that goes against the definition of legitimacy. In order to do this, article 172 should always be interpreted in conjunction with articles 164, 165, and 175. In proving filiation of legitimate children, it must always be considered that proof of legitimacy and proof of filiation are conceptually different. Article 172 constitutes proof of filiation. The filiation to be proven is that of legitimate children, while under article 175, illegitimate children. The status of legitimacy or illegitimacy is already assumed in accordance with either article 164 or 165.

IV. CONCLUSION

Civil status is not a proper subject of compromise.[78] While filiation may be established by evidence constituting proof of recognition, recognition is immaterial in establishing status. It cannot be left to the will or agreement of the parties. The law itself establishes the status of a child from the moment of birth.[79] Under the Family Code, a child is legitimate only if born inside a valid marriage.[80] Clearly, the child cannot be considered legitimate solely on the basis of article 172.

Considering article 172 as providing proof of legitimacy is not only contrary to the letter of the law but it is conceptually wrong. Consider, for example, a child who is in continuous possession of the status of a legitimate child, but in fact is neither adopted nor a natural child of the alleged parents. If article 172 is construed as providing modes of proving legitimacy, then the child would be legitimate even if in fact said child is not that of the alleged parent. If the birth certificate of a child indubitably establishes legitimacy then a child of a void marriage would be legitimate as long as the birth certificate indicates such fact even if the law clearly provides otherwise. Simply, if article 172 is construed as proof of "legitimate filiation" instead of

78. An Act to Ordain and Institute the Civil Code of the Philippines, Republic Act No. 386, art. 2035 (1949).

79. Concepcion v. Court of Appeals, 468 SCRA 438 (2005); ALICIA SEMPIO-DY, HANDBOOK ON THE FAMILY CODE OF THE PHILIPPINES, 275 (1995 ed.); Sayson v. Court of Appeals, 205 SCRA 321 (1999).

80. FAMILY CODE, art. 54. The Family Code states that a child who was conceived or born before the judgment of annulment or of absolute nullity of the marriage on the ground of psychological incapacity has become final and executory shall be considered legitimate. It also provides that a child who was born from a subsequent void marriage as a result of the failure of the contracting parties to comply with the mandatory provisions of article 53 of the Family Code shall likewise be considered legitimate.

being proof of filiation only, the intent of the law which in no uncertain terms confers the status of legitimacy to children born or conceived inside a valid marriage would be frustrated. This has far reaching effects because as of today, though the law wishes to eliminate the distinction between legitimate and illegitimate children, the fact remains that there is a distinction. The effect of the provision should not be to frustrate the law to the prejudice of the rights of legitimate children.

In fine, the proper construction would be to read article 172 in conjunction with other provisions of the Family Code. Article 172 proves filiation but not legitimate filiation. It is proof that a child is recognized by the father and such acknowledgment proves filiation. Legitimacy, however, is conferred by law and proof of legitimacy should be in accordance with its legal definition.